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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,924	01/14/2002	Sylvaine Cases	UCAL-240CIP	4706

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EXAMINER	
HUTSON, RICHARD G	
ART UNIT	**PAPER NUMBER**
1652	4

DATE MAILED: 04/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/046,924	CASES ET AL.	
	Examiner	Art Unit	
	Richard G Hutson	1652	

-- *The MAILING DATE of this communication appears on the cover sheet with the corresp ndence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *1* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-23* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Claims 1-23 are present for examination.

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-3, 7 and 8-10, drawn to a polynucleotide encoding a MGAT1 or a DGAT2α product, vector and host cells comprising said polynucleotide sequence and methods of expression of said polynucleotide, classified in class 435, subclass 193.

II. Claims 4-6 drawn to an isolated MGAT1 or DGAT2α polypeptides, classified in class 435, subclass 193.

III. Claims 11-14, drawn to an antibody directed against the DGAT2α polypeptide, classified in Class 530, subclass 387.1.

IV. Claims 15-18, drawn to methods of inhibiting the activity of a DGAT2α protein, classified in class 435, subclass 193.

V. Claims 19-21, drawn to methods of modulating a symptom in a mammalian host of a disease condition associated with DGAT2α activity, classified in class 514, subclass 789.

VI. Claim 22, drawn to a method of producing a triacylglycerol, classified in class 435, subclass 15.

VII. Claim 23, drawn to a method of identifying an agent that inhibits an acyltransferase, classified in class 435, subclass 15.

For each of inventions I -VII above, restriction to one of the following is also required under 35 USC 121:

SEQ ID NO: 1, 3, 5, 7, 9, 11, 13, 15 and 18, (polynucleotides)

SEQ ID NO: 2, 4, 6, 8, 10, 12, 14 (polypeptides)

Therefore, applicants are required in addition to electing **one** of the above groups I-VII, to also elect **one** of the above SEQ ID NOs.

The inventions are distinct, each from the other because of the following reasons:

Inventions directed to each of the different SEQ ID Nose (SEQ ID NO: 1-15 and 18) are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions, represent structurally different polypeptides and the polynucleotides encoding them. Therefore, where structural identity is required, such as for hybridization or expression, the different sequences have different effects.

Inventions I, II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the polynucleotide of Group I, the polypeptides of Group II and the antibody of Group III each comprise a chemically unrelated structure capable of separate manufacture, use and effect. The polypeptide of Groups II and the antibody of

Group III are each comprised of different amino acid sequences and the polynucleotide molecule of Group I is comprised of a nucleic acid sequence. The polynucleotide has other utility besides encoding protein such as a hybridization probe, and the proteins can be made synthetically. Additionally, the protein can be used to perform specific biological function(s) which are independent of the function(s) of the DNA molecule.

Inventions II and inventions IV, VI or VII are related as product and processes of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the polypeptides of Group II can be used in a materially different process such as synthesis of an antibody to be used as a diagnostic against the DGAT2α polypeptide.

The polynucleotide of Group I and the antibody of Group III are unrelated to the method of Group IV or VI, as they are neither used nor made by the method of Groups IV, VI or VII.

The nucleic acid molecule of Group I, the polypeptides of Group II and the antibody of Group III are unrelated to the method of Groups V, as they are neither used nor made by the methods of Groups V.

The methods of Groups IV-VII are independent as they comprise different steps, utilize different products and produce different results.

Because these inventions are distinct for the reasons given above, have acquired a separate status in the art as shown by their different classification, and the literature and sequence searches required for each of the Groups are not required for another of the Groups, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(l).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard G Hutson whose telephone number is (703) 308-0066. The examiner can normally be reached on 7:30 am to 4:00 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy can be reached on (703) 308-3804. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3014 for regular communications and (703) 305-3014 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Richard Hutson, Ph.D.
Primary Patent Examiner
Art Unit 1652
April 21, 2003